

**FILED**

NOV 28 2006

NR

**MICHAEL W. DOBBINS**  
**CLERK, U.S. DISTRICT COURT**

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS

Jason S. Galloway,

*Plaintiff,*

v.

C.H. Robinson Worldwide, Inc.,

*Defendant.*

06CV6487

JUDGE COAR

MAGISTRATE JUDGE BROWN

)  
)  
) **JURY TRIAL DEMANDED**  
)

---

**COMPLAINT**

Plaintiff Jason S. Galloway, for his Complaint against defendant C.H. Robinson Worldwide, Inc., alleges and states as follows:

**PROCEDURAL HISTORY**

1. The individual Fair Labor Standards Act ("FLSA") overtime wage violation claims alleged in this Complaint were originally asserted in *Carlson, et al. v. C.H. Robinson Worldwide, Inc.*, Civil No. 02-3780 (JNE/JJG) (filed October 2, 2002; D. Minn.) and *Johnson, et al. v. C.H. Robinson Worldwide, Inc.*, Civil No. 02-4261 (JNE/JJG) (filed November 14, 2002; D. Minn.). On November 27, 2002, the *Carlson* and *Johnson* actions were consolidated for purposes of the common FLSA claims.

2. On May 20, 2003, the *Carlson/Johnson* Court entered an order conditionally certifying separate § 216(b) classes for purposes of asserting overtime wage violation claims under the FLSA. The Court defined the classes as "all present and former female/male salaried employees of C.H. Robinson located in the United States who are/were employed in a sales, operations or support position in the transportation (including intermodal and international), produce, Ross Division, T-Chek or CPDS units, and who worked more than forty hours in any

week without receiving overtime pay at any time between October 2, 1999/November 7, 1999 and the present.”

3. Plaintiff subsequently filed his respective consents to join the *Johnson* lawsuit for purposes of asserting his FLSA overtime wage violation claims.

4. On September 27, 2006, the *Carlson/Johnson* Court entered an order decertifying the collective action classes, dismissing without prejudice the FLSA overtime wage violation claims of Plaintiff, among others, and staying the order for thirty days. By agreement of the parties, the stay was extended an additional thirty days. Accordingly, plaintiff has timely re-filed his FLSA claims herein.

### **PARTIES**

#### **A. Plaintiff**

5. Plaintiff Jason S. Galloway is a male resident of Spokane, Washington. He was hired by CHRW in July 2000, and was employed in a transportation sales position in the Whitefish Branch and was classified by C.H. Robinson Worldwide, Inc. as an exempt, salaried employee during the FLSA liability period.

#### **B. Defendant**

6. Defendant C.H. Robinson Worldwide, Inc. (“CHRW”) is a Delaware corporation with its principal place of business in Eden Prairie, Minnesota. It is engaged in the third-party transportation logistics industry. It employs more than 5,000 employees in the United States. CHRW maintains a nationwide branch network, including a branch office in Whitefish, Montana (The “Whitefish Branch”), where it employed Plaintiff.

### **JURISDICTION AND VENUE**

7. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 because this action is brought under the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 207.

8. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b) because CHRW resides or may be found in this District.

### **FACTS**

9. CHRW misclassified Plaintiff as exempt employees for purposes of the FLSA.

10. CHRW required Plaintiff to work in excess of forty hours per week on a regular basis.

11. CHRW regularly failed to pay Plaintiff at the FLSA prescribed overtime pay rate for the hours he worked in excess of forty hours in a week.

12. CHRW did not keep records of the overtime hours worked by Plaintiff.

13. CHRW knew or should have known that Plaintiff did not perform work that even arguably qualified him as exempt pursuant to the FLSA.

14. Plaintiff did not have as his primary duty the performance of office work directly related to CHRW's policies or the general business operations of CHRW's customers. Rather, he was engaged in the production of CHRW's service.

15. The basic job duties of Plaintiffs were limited to some or all of the following: (a) taking customer orders; (b) providing rate quotes; (c) entering orders in the computer system; (d) arranging third-party transportation vendors; (e) coordinating freight pick up and delivery; and, (f) monitoring shipment. These job duties do not give rise to an exemption under the FLSA.

### **COUNT I – FAILURE TO PAY OVERTIME COMPENSATION**

16. Plaintiff restates and realleges the allegations contained in Paragraphs 1 through 15 as though set forth here in full.

17. Plaintiff worked significantly more than forty hours in a week on a regular basis, and did not receive overtime compensation from CHRW in violation of the FLSA.

18. CHRW did not have a good faith basis for believing that its failure to pay overtime compensation to Plaintiff was in compliance with the FLSA.

19. CHRW's systematic failure to pay overtime compensation to Plaintiff constitutes a repetitive willful violation of the FLSA.

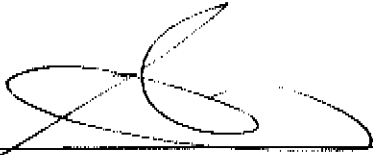
20. As a result of CHRW's violations of the FLSA, Plaintiff is entitled to recover unpaid overtime compensation plus interest thereon or liquidated damages.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully pray that the Court: (1) declare that defendant C.H. Robinson Worldwide, Inc. violated his respective rights under the FLSA; (2) enjoin defendant C.H. Robinson Worldwide, Inc. from further violations of the FLSA; (3) award his actual damages plus interest or liquidated damages under the FLSA; and, (4) award his costs including, but not limited to, attorneys' fees, experts' fees, and other costs and expenses incurred to prove their claims.

### **JURY DEMAND**

Plaintiff demands trial by jury on all issues triable of right by jury.



LOCAL COUNSEL

L. Steven Platt (IL Atty # 3122005)  
ARNOLD AND KADJAN  
19 W. Jackson, 3<sup>rd</sup> Floor  
Chicago, IL 60604  
(312) 236-0415

*Attorney for Plaintiffs*

Seymour J. Mansfield (MN Atty # 67271)  
Lawrence P. Schaefer (MN Atty # 195583)  
Of Counsel to Mansfield Tanick & Cohen  
Charles A. Horowitz (MN Atty # 294767)  
Jean B. Roth (MN Atty # 0348181)  
MANSFIELD TANICK & COHEN  
1700 U.S. Bank Plaza South  
220 South Sixth Street  
Minneapolis, MN 55402-4511  
(612) 339-4295

*Attorneys for Plaintiff*